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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,363	08/24/2001	John Reiner	CL1	3442

26841 7590 10/04/2002

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EXAMINER

BARTZ, CLIFFORD T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/939,363

Applicant(s)

REINER ET AL.

Examiner

Clifford Bartz

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,8,9 and 14 is/are rejected.
- 7) ☐ Claim(s) 1,3-7,10-13,15-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3683

### Part III DETAILED ACTION

#### Claim Objections

Claim(s) 1, 17 is(are) objected to as ungrammatical. It is suggested that the word "communicated" be changed to -- communicating --. Correction is required.

#### Claim Rejections - 35 USC § 112 - 2

Claim(s) 5, 14 is(are) rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 5, 14: there is no antecedent basis for the "second ball bearing", there is not even a "first ball bearing" clearly claimed. There is no antecedent basis for the "other ball bearing".

#### Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim(s) 1, 2, 8, 9 is(are) rejected under 35 U.S.C. § 103 as being unpatentable over Anderson.

Anderson discloses all the structure of the claimed device including: air valve 10; air spring 2; pneumatically communicating by way of 7; rod 4 ( in contact with axle support 3 ); member ( but not cross-member ) 1; rail 47; actuator 45 ( upper, as seen in seen Fig. 3 ); actuator arm 46b ( of Fig. 3 ), slidably attached ( see the oblong vertical holes 46a, 46b of Fig. 4 – note that 46b of Fig. 3 does not correspond precisely to 46b of Fig. 4 ); mounting plate for example 46b of Fig. 4, attached to part of the air valve, for example 50; link disclosed as the connection between 3 and 4. except for a member which is a cross member. It would have been an obvious expedient to one having ordinary skill in the art at the time the invention was made to use a cross member to support the actuator assembly, since the only difference is in the location. The location of the member is(are) constrained to be of a type determined by the application to which the actuator assembly is put, and the location of the claimed invention has no patentable novelty of and by themselves; and further that the contemplation of these locations is well within the capability of a routineer in the art.

#### Allowable Subject Matter

Claim(s) 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18 would be considered allowable if rewritten to correct any objections; or overcome any applicable rejections, under 35 USC 112; and to include all the limitations of the base claim and any intervening claims.

## Conclusion

In Pierce, note abstract.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Bartz whose telephone number is (703)308 - 2564. The examiner can normally be reached on Mondays thru Fridays from 8:30 am to 3:30 pm.  
( clifford.bartz@uspto.gov ) [ Fax -(703)308 - 3519 ]

If attempts to reach the examiner by telephone are unsuccessful; a message may be left at the Group Receptionist, whose telephone number is ( 703 ) 308 - 1113 .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavendar, can be reached on (703)308-3421


Any further inquiry of a general nature or relating to the status of this application may also be directed to the Group Receptionist, whose telephone number is ( 703 ) 308 - 1113.

Clifford T. Bartz  
Examiner

Art Unit 3683 - 9/29/02

### Summary:

Total claims = 1 - 18  
Rejected claims = 1, 2, 5, 8, 9, 14  
Objected claims = 1, 3 - 7, 10 - 13, 15 - 18

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
9/30/02